

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re

The Preliminary Determination of Rate-of-
Return Study Areas 100 Percent Overlapped
by Unsubsidized Competitors

WC Docket No. 10-90

REPLY COMMENTS
of

Gervais Telephone Company and Mt. Angel Telephone Company

September 28, 2015

INTRODUCTION

These Reply Comments are filed on behalf of Gervais Telephone Company (“Gervais”) serving Study Area Code 532373 and Mt. Angel Telephone Company (“Mt. Angel”) serving Study Area Code 532386. These Comments are in reply to the Comments filed by WaveDivision Holdings, LLC (“Wave”).¹ Wave’s Comments are both factually incorrect and premised upon a faulty legal analysis. As a result, Wave’s Comments should be given little credence.

1. Wave’s Comments contain obvious factual errors.

Wave’s Comments are factually incorrect in a number of instances. First, Wave’s Comments identify Canby Telephone Association as the entity that is the subject of Wave’s Comments. However, Canby Telephone Association is not included on the list of entities in DA 15-868 which are subject to potentially either a one hundred percent overlap or ninety-nine percent overlap. Second, Wave identifies Canby Telephone Association as serving Study Area Code 532386. Canby Telephone Association does not serve study area 532386. That study area is served by Mt. Angel Telephone Company.²

Third, Wave asserts that based on Wave’s discussion of the Gervais and Mt. Angel (labeled as Canby by Wave) service areas, the high-cost support “directed to Smart City in such areas” should be eliminated.³ This is clearly a careless drafting error. Smart City Telecom has no connection whatsoever with either Gervais or Mt. Angel. In fact, the ILEC service areas of

¹ See, Comments of WaveDivision Holdings, LLC, *In the Matter of Connect America Fund Determination of Rate-of-Return Study Areas 100 Percent Overlapped by Unsubsidized Competitors*, DA 15-868, WC Docket 10-90 (filed August 25, 2015) (“Wave Comments”).

² Canby Telephone Association is the parent company of Mt. Angel. However, Canby is an operating company in its own right and serves Study Area Code 532362. Canby and Mt. Angel are separate entities. It should be both obvious and important to distinguish between the two entities.

³ Wave Comments at p. 3.

Smart City appear to be in the State of Florida, which is about as geographically removed from Gervais and Mt. Angel's service areas in the State of Oregon as one can get. How Wave confused Smart City with Gervais and Mt. Angel is difficult to fathom.

Such basic factual errors and lack of attention to detail certainly call into question the accuracy of Wave's assertion that it offers service to all locations in 131 census blocks in study areas 532373 and 532386.⁴ Note that since the Gervais study area contains 188 census blocks and the Mt. Angel study area contains 219 census blocks, Wave cannot, by its own admission, serve 100 percent of the census blocks in either study area, let alone both of them.

2. Wave's Comments are premised on a fundamental misunderstanding of the Commission's rules.

It is difficult to parse out whether Wave is arguing that the high-cost support for Gervais and Mt. Angel should be removed from its entire study area or be removed only from those census blocks where Wave asserts that it provides a hundred percent overlap.

For example, Wave asserts that it serves all locations within the census blocks reported on its Form 477 reports "which overlap the service areas of Gervais Telephone Company, and Canby Telephone Association[sic]" and goes on to state "Accordingly, the Bureau should make a final determination that the affected study area is 100% overlapped and served by an unsubsidized competitor, and therefore eliminate the high-cost support directed to the rate of return carriers in such areas."⁵ This seems to suggest that Wave is arguing that it provides a 100% overlap of the Gervais and Mt. Angel service territories. As discussed below, that is clearly not factually true.

⁴ Wave Comments at p. 2.

⁵ Wave Comments at p. 1.

As identified on the attachments to Wave's Comments, which are screen shots of the maps of the Gervais and Mt. Angel service areas from the Commission's mapping tool, Wave is present in seventy-four census blocks of the 188 census blocks that comprise the Gervais service area.⁶ Further, Wave states that is present in only fifty-seven of the 219 census blocks that constitute the Mt. Angel service area. Thus, based on the Commission's own data which is cited by Wave, the census blocks in which Wave is present do not constitute the entire service area of either Gervais or Mt. Angel.

In contrast to the statement above about removing support from the entire study areas, Wave later makes the following statement: "The Bureau should therefore take this opportunity to affirm Commission goals by eliminating all high-cost support to Gervais Telephone Company and Canby Telephone Association[sic] for the Study Area locations which are 100% overlapped by those areas where Wave offers voice and broadband service as an unsubsidized competitor."⁷ Wave closely follows the just quoted statement with the following ". . . Wave respectfully requests that the Bureau make a final determination of the census blocks and locations identified as served by Wave in the Commission's records be treated as 100% overlap and served by an unsubsidized competitor, and therefore eliminate the high-cost support directed to Smart City[sic] in such areas." These two quotes suggest that Wave is arguing that high-cost support should be removed for those census blocks it serves, even though the census blocks it serves constitute far less than the entire study area. However, such a result is clearly contrary to existing law.

Under Section 54.319 of the Commission's rules, it is clear that before high-cost support is removed from a rate-of-return carrier, the unsubsidized competitor (or a combination of

⁶ This assumes that Wave's Comments are not overstating its presence.

⁷ Wave Comments at p. 3.

unsubsidized competitors) must be able to serve every location within every census block that constitutes the service area of the affected ILEC.⁸ That is clearly not the case here. Wave's Comments to the effect that support should be removed in the case of a partial overlap should be given no weight.

CONCLUSION

Thus, Wave's Comments submitted in this matter make fundamental mistakes as to the facts and appear to be premised on a basic misreading of the Commission's rules. As a result, no credibility should be assigned to Wave's Comments.

Based on the material provided in the Opening Comments⁹ and the foregoing, Gervais and Mt. Angel request that they be removed from the Commission's list of ILECs that are purportedly one hundred percent overlapped by an unsubsidized competitor or combination of unsubsidized competitors.¹⁰

Respectfully submitted this 28th day of September, 2015.



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⁸ 47 C.F.R. § 54.319(a).

⁹ Comments of Gervais Telephone Company, Monitor Cooperative Telephone Company, Mt. Angel Telephone Company and St. Paul Cooperative Telephone Association filed August 28, 2015 ("Opening Comments").

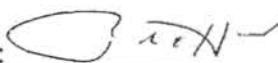
¹⁰ The same result is also true for St. Paul Cooperative Telephone Association and the purported ninety-nine percent overlap of Monitor Cooperative Telephone Company discussed in the Opening Comments.

Each officer set out below certifies that the foregoing is true and correct as it applies to their company.

GERVIAS TELEPHONE COMPANY,
an Oregon cooperative company

By: /s/John Hoffman
John Hoffmann, President/CEO

MT. ANGEL TELEPHONE COMPANY,
an Oregon corporation

By: 
Paul Hauer, President/General Manager